

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

May 3, 2019

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALLARI GUZMAN,

Defendant - Appellant.

No. 18-3135
(D.C. Nos. 6:16-CV-01169-JTM &
6:97-CR-10022-JTM-4)
(D. Kan.)

ORDER AND JUDGMENT*

Before **MATHESON, BACHARACH, and PHILLIPS**, Circuit Judges.

This matter is before us on the Response of the United States to Court Order of April 18, 2018, within which was a motion seeking summary affirmance of the district court's judgment. The United States moves for summary affirmance based on this court's recent published decision in *United States v. Pullen*, 913 F.3d 1270 (10th Cir. 2019), *en banc rev. denied* April 15, 2019, and the court's earlier decision in *United States v. Greer*, 881 F.3d 1241 (10th Cir. 2018). While the appellant does not

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

dispute that *Greer* and *Pullen* control the outcome of this appeal and does not contest summary affirmance of the district court's judgment, he reserves the right to appeal this matter to the United States Supreme Court for further review.

In light of the foregoing, the tolling of proceedings in this appeal is lifted, and the appellee's motion for summary affirmance is granted. The judgment of the district court is affirmed.

Entered for the Court
Per Curiam